

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the matter of)
)
Cable Services, Inc.)
)
Request for Confidentiality for Information)
Submitted on Forms 325 for the Year 2003)
)

ORDER

Adopted: June 29, 2004

Released: June 30, 2004

By the Chief, Media Bureau:

1. We have before us a Request for Confidentiality ("Request") in which Cable Services, Inc., ("CSI") seeks protection from disclosure to the public for information submitted for its systems in 2003 in various fields of FCC Form 325, the Annual Report of Cable of Systems. We deny CSI's request.

2. Cable television system operators are required to submit a completed Form 325 within 60 days of receiving the form.¹ The forms are sent annually to all systems that have 20,000 or more subscribers and a sample of systems that have fewer than 20,000 subscribers. Submitted Forms 325 are routinely available to the public in the Commission's Reference Information Center.² Cognizant of potentially sensitive information, cable operators, however, may request that the information, or portions of the information, submitted on Form 325 not be made routinely available to the public.³ A request for confidentiality must specify the reasons the information should be withheld and address nine specific issues.⁴ Six of these issues are most relevant to the case at hand: 1) the degree to which the information is financial or commercial or is privileged, 2) the degree to which the information concerns a service that is subject to competition, 3) how disclosure of the information would result in substantial competitive harm, 4) measures taken by the submitting party to prevent unauthorized disclosure, 5) whether the information is available to the public and the extent of any previous disclosure to third parties, and 6) justification for the period during which the submitting party asserts disclosure should be withheld.⁵ The request must show by a preponderance of the evidence that non-disclosure is consistent with the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552.⁶ Should the request be granted, the status of the materials becomes the same as materials not routinely available to the public. Then, a person seeking access to the information must file a request for inspection pursuant to the FOIA procedures.⁷

¹ 47 C.F.R. § 76.403.

² *Id.* § 0.453(a)(2)(v)(C).

³ *Id.* § 0.459.

⁴ *Id.* § 0.459(b)

⁵ *Id.* § 0.459(b)(3) - (8).

⁶ *Id.* § 0.459(d)(2).

⁷ *Id.* § 0.459(h). FOIA procedures are in Section 0.461 of the Commission's Rules. *Id.* § 0.461.

3. CSi submitted the Request with its completed Forms 325 on October 22, 2003, identifying the portion of the submitted materials to which the Request applies.⁸ The Request was not properly filed in that it did not address any of the issues or provide supporting justification. The deficiencies in the Request were communicated to CSi by telephone on October 23, 2003. Having not received an amended request Commission staff attempted to contact CSi on December 22, 2003. The staff left a message, which has not been returned. Because of the deficiencies in CSi's request and CSi's failure to pursue the matter, we will dismiss the Request.

4. Accordingly, IT IS ORDERED, pursuant to Sections 0.459(d)(2) of the Commission's Rules, 47 C.F.R. § 0.459(d)(2), that the request for CONFIDENTIALITY by Cable Services, Inc., IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

W. Kenneth Ferree
Chief, Media Bureau

⁸ *Id.* § 0.459(a).